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C O N F I D E N T I A L SECTION 01 OF 03 HARARE 001237

SIPDIS

DEPT FOR AF, AS KANSTEINER AND PDAS BELLAMY; ALSO FOR AF/S
NSC FOR SENIOR DIRECTOR FRAZER

E.O. 12958: DECL: 05/22/2007

TAGS: [PREL](#) [PGOV](#) [EAGR](#) [ECON](#) [PHUM](#) [ZI](#)

SUBJECT: MAY 22 DISCUSSIONS WITH MDC MP DAVID COLTART

Classified By: DCM REWhitehead due to 1.5 (b) and (d).

11. (c) Summary: Ambassador and DCM met with MDC MP and shadow justice minister David Coltart over breakfast on May 22. Coltart addressed his personal security and his upcoming trip abroad, then described developments in the MDC's legal challenge of the results of the March 2002 presidential election. Coltart also described his recent meetings with commercial farmers and a dawning GOZ awareness of the ramifications of its wayward agricultural policies. He noted that certain, more radical elements of the MDC favor mass action, but he expressed his belief that this would not succeed and that attempts to impose quick fixes are unrealistic. Coltart concluded with comments on outstanding legal cases that pit the MDC against ZANU-PF. End Summary.

Security Concerns

12. (c) The Ambassador recounted to Coltart his recent conversation with Congressman Royce in which the latter had described credible death threats against Coltart relayed to Royce by Orange County constituents of Zimbabwean origin. The Ambassador observed that Royce felt that Coltart's best option was to leave Zimbabwe. Coltart replied that he did not think that he was in any clear danger; instead, he viewed the ZANU-PF threats as mind games. The Ambassador asked Coltart about the whereabouts of his family and whether threats had been directed toward them. Coltart responded that they were at home in Bulawayo, and that there had been only "indirect" threats.

Plans to Travel Abroad

13. (c) Coltart continued that while he had no intention to "go hide overseas," he did intend to leave on May 26 for a month-long trip to the UK, USA, and Canada. He planned to be in Washington between June 10 and 14 and hoped to meet with Assistant Secretary Kansteiner, PDAS Bellamy, various human rights groups, the American Bar Association, and the International Bar Association. His goal was to recruit outside observers to attend the upcoming MDC challenge before the High Court of ZANU-PF's victory in the March 2002 Presidential Election.

14. (c) He readily admitted that the MDC expected the GOZ to steer the case to a High Court judge sympathetic to ZANU-PF in order to shield the Supreme Court and Mugabe-appointed Chief Justice Chidyausiku from dealing with the case. What MDC sought was high-level international attention to the case that would bring pressure to bear on the Zimbabwean judiciary. To this end, the MDC was in contact with an eminent South African lawyer named Gauntlet who had been recommended to Coltart by the ANC. Coltart said that the Rhodesian born Gauntlet had left Rhodesia as a young man because of his father's rejection of Ian Smith's UDI regime. A Rhodes scholar with offices in both Johannesburg and London, Gauntlet was widely viewed in Southern Africa as one of the finest trial lawyers on the scene. Coltart said that he would meet with Gauntlet later in the day to discuss the possibility of "Operation Gauntlet," an MDC initiative to turn the legal challenge into a media event that would embarrass ZANU-PF and maintain an international focus on Zimbabwe. He cautioned that scant MDC resources could be the limiting factor in what looked to be an eight-week long trial,

15. (c) Coltart said that abundant evidence was pouring in, so much that it would be necessary to do a legal triage to avoid the abundance of facts from obscuring the central themes. The MDC planned to forward constitutional arguments, especially on Mugabe's unconstitutional use of statutory instruments. They would supplement this with irrefutable technical arguments, such as the Registrar General's failure to produce the voters' rolls. The MDC legal team would steer clear of basing their case on pre-electoral violence, since this could only produce a series of witnesses pitting one's word against the other's.

The Food Crisis

16. (c) The Ambassador noted that Zimbabwe's looming food crisis would once again focus international attention on Zimbabwe; should Coltart engage the press while abroad, he should stress the rich contribution of errant GOZ agricultural policies to the crisis, both in Zimbabwe and regionally. Coltart said that it appeared that the enormity of the crisis had finally begun to dawn on GOZ leadership. In Chinhoyi, Mashonaland West Governor Chinetsa recently met with war vets and police and instructed them to let commercial farmers return to farming. Last weekend, Mugabe and several of his ministers had toured farming areas and met with several commercial farmers. Mugabe had urged them to put in the winter wheat crop and -- according to another source -- expressed surprise and then chastised his entourage when a farmer informed him that he could not undertake farming activities because he had received a Section Eight acquisition notice and because all of his irrigation pipes had been stolen.

17. (c) Coltart observed that the apparent ZANU-PF change of heart was too late -- the final date for putting in winter wheat had already passed. In addition, necessary inputs are not available. The government had approached the leading irrigation equipment dealer from Bulawayo with open pocketbook only to learn it would take him a minimum of two months to import enough material to put irrigated commercial agriculture back on its feet. Coltart said that his own recent tour of the farming heartland around Gweru and Kwekwe had revealed the low morale of the commercial farmers, many of whom are planning to leave. He added that it was difficult to say exactly how many farmers remained countrywide on their farms. In Matebeleland South, only five farmers had been evicted. In Marondera, 23 or 24 farmers had vacated.

18. (c) Coltart charged that the Commercial Farmers' Union had not provided strong leadership. The MDC has sought to champion the farmers' cause by drafting a contract that sets three basic pre-conditions: an all or nothing approach that exempts all commercial farmers from harassment; the unhindered access of farmers to their fields, and a concomitant return to rural rule of law; and the removal of Section Eight provisions. Coltart said that at this juncture few farmers are willing to risk a Section Eight provision that mandates two-years' imprisonment for any farmer who attempts to till his land after a Section Eight has been served. He added that this amendment rammed through by Justice Minister Chinamasa in the most recent rump session of Parliament was doomed to be stricken down by the courts, since once again Chinamasa had suspended procedural rules and rammed the amendment through absent the legally constituted Legal Committee of three that must review the law.

Prospects for Mass Action

19. (c) The Ambassador cited newspaper reports on calls for mass action and asked Coltart if he thought this constituted a viable option. Coltart replied that he did not believe that it could work and that, in fact, it would probably play to Mugabe's strength. He mused that perhaps a two-day stay-away might prove the point that the population is unhappy. Coltart said that based on their most recent conversation, Morgan Tsvangirai shared this view. However, there is a minority of MDC hawks who favor muscular action now. Coltart noted that almost all of these were Shona, mostly from Harare. He felt that it was possible that some of these might be agent provocateurs planted by ZANU-PF. The Ambassador said that we are concerned about Tsvangirai's ability to control violent outbreaks that the GOZ could use as a pretext to move against the MDC. Coltart responded that there is no quick fix solution to Zimbabwe's woes. However, it is essential to hold out some minimal hope. This was one reason why the MDC continued to pursue its legal challenge to Mugabe's election "victory."

Legal Skirmishes

10. (c) Coltart described the ongoing legal tit for tat between ZANU-PF and MDC. He observed that the GOZ has shown no enthusiasm for pressing forward on the treason case against Tsvangirai. The GOZ also continues to harass Coltart and other Bulawayo based MDC leaders charged with either weapons violations or the 2001 murder of ZANU-PF activist Cain Nkala, but they have brought none of these cases to trial. Coltart said that this may be partly due to the fact that the courts have not yet acted on the disappearance case of Coltart's polling agent Patrick Nabanyama, who was abducted by three men in front of his family in June 2000 and then turned over to other ZANU-PF supporters who allegedly

murdered him. The body has never been found, and now the prosecution has released the alleged killers and charged the four kidnappers with murder, but not kidnapping. In the absence of the body or any corroborating evidence, Coltart said, the three men cannot be convicted, and everyone will go free. Once the prosecutors have disposed of this case, predicted Coltart, they will set their sights on the MDC supporters accused of murdering Nkala.

Comment

11. (c) Coltart was surprisingly upbeat about the reigning situation. He seems prepared to take a peaceful, tactical approach that will prolong ZANU-PF's international isolation and wait for the inevitable results of GOZ policy mismanagement, including the food crisis, to further weaken ZANU-PF's base of support. Coltart clearly appreciates that failed mass action risks undermining the credibility of the MDC, and fracturing its disparate base of support. On his own safety, Coltart still believes that intimidation and not elimination is the ZANU-PF strategy. Fellow MDC MP Roy Bennett expressed the same views during a separate meeting with DCM and Poloff on May 22, although he admitted that certain hard-line elements of ZANU-PF can be very unpredictable.

SULLIVAN